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TO : CHIEF/HRG
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ARRB PROCESS

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[R] - ITEM IS RESTRICTED 104-10331-10339

5 March, 1997

Memorandum For: Chief/HRG

From: Barry Harrelson 

Subject: Name Issue / Status of Review

Reference: Meetings with ARRB staff (Marwell & Gunn)
4 March 1997

Name Issue

I met with Gunn and Marwell (separate meetings) to discuss the reopening of the names issue per my memo to you. Both Gunn and Marwell reacted positively. They found the proposal to be reasonable one and they are willing to work with us in approaching the Board. However, both said they could not predict the Boards reaction. Per Marwell, one member of the Board (Anna Nelson) seems to believe that if a person worked for the CIA it should be known.

Apparently our timing is excellent. Marwell is planning to propose to the Board that they change the process from the focus on individual postponements to documents. Under the new approach his staff would have the authority to negotiate with the Agency on the release of documents, and only issues/documents of disagreement would be placed before the Board. Marwell is convinced that even with an additional year they will not finish the project with the current approach. He sees our proposal on the names as an example of how the process would work.

Marwell recommends that we include examples of documents containing names of little or no connection to the story. Bob Skwirot (he was in the meeting with Marwell) said that there were a number of names that appeared in only one document and that the number of names had reached 590. Marwell wants to start immediately on preparing a joint list of important/releasable individuals.

Action: Advise DO, OGC, upper management of our proposal to reopen the name issue (how?). Need to decide what level would sign the memo to the Board, and who would prepare the memo. If you agree I can send a copy of my memo to you to Linda and Fred for background use.

HRG and DO team will collect examples of documents and prepare (with ARRB staff) a list of individuals. The DO should focus on any person on the list that needs protection and prepare the evidence ASAP (i.e. not wait for the issue to be resolved).

New ARRB Review Process

Marwell and I spent some time discussing how a new process would work. He would like to test the process for the April meeting. The following is a rough outline with my comments:

1) HRG reviewers would review the documents the same as they do now (postponements would be blue highlighted). [no change in our procedures]

2) ARRB staff would review the blue highlighted document.

a) If they agree, they would stamp the document "ARRB approved" and return it to HRG to process for NARA.

b) If they disagree they would highlight in yellow (creating green highlighting). If the two staffs cannot resolve the issue, then the document would go before the Board.

[Major change: ARRB staff would no longer record all the proposed postponements, no DO damage review, no detailed determination letter requiring HRG reviewers to use the "grid" to determine what happen.]

3) Non-issue documents would be sent to the ARRB staff when ready for NARA. At that time the ARRB staff would prepare a simplified final determination notice and letter to the Agencies.

[No action would be required; HRG would file the final determination notice with the document].

4) "Green" highlighted documents that go to the Board would be handled the same as today.

[The expectation is that a lot less documents would require Board action.]

Comments: With some fine tuning, I think this process could work, and we would be able to complete the re-review of documents released in 1993 and 1994 by Oct. 1998. Completing the entire project will depend on how quickly the "non-related" material and the "additional records" are reviewed by the ARRB staff.

Pending Issues

As part of the change in process, Marwell wants the Board to focus on outstanding substantive issues as opposed to micro managing the review. We discussed the following:

1) Nosenko. ARRB staff needs to review the non-related material and make a recommendation to the Board. Marwell leans toward not treating all of Nosenko as assassination related. Could be a hard sell with some Board members. Should we request that Nosenko meet with the Board? Marwell thinks they would react favorably.

2) Personnel Files. Again the first step is to have his staff confirm that only a part of a file is related and that those documents are in the released material.

3) Gibson. FBI file issue; we need to present case to the Board

4) LI 9. Continuing to protect will be a hard sell given that Newman has published identity; we need to present case to the Board.

5) CRC Financial Files. ARRB staff needs to review

Annual Report and Extension

Marwell ask me to draw you attention to the Annual Report and the request for an extension. He would still like a letter from the Agency (could be addressed to him) along these lines: "reviewed Annual Report"

"note that the Board has ask for extension"

"support the request/feel it is in interest of Agency and public /or something along these lines"

Other issues (not discussed with Marwell/Gunn)

Linda (OGC) says CI Staff has ask Gunn to rewrite his notes, and opposes Gunn's suggestion to release pages from the CI histories he reviewed. Gunn indicated in his notes that some of the pages should be released and might be considered assassination records. We are going to run into similar problems with the other histories. Gunn will be in HQ tomorrow to re-do his notes. She will discuss the "pages issue" with the goal of having him drop the request to release. As to the question of designating the pages as assassination records, she will inform him that CI will oppose. If he insist, she will refer back to HRG.